IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.415 OF 2006
IN
NOTICE OF MOTION NO.3560 OF 2004
IN
SUIT NO.70 OF 1999

Mrs.Godwin Lewis .. Appellant
V/s
Robert John Quadros & Ors. .. Respondents
....

Mr.S.A.Shetty with Mr.K.B.Adyanthya for the Appellant.
Mr.Anthony T.Marques for Respondent No.1.
Mr.S.B.Dubey for Respondent No.2.
Mr.M.S.Menon for Respondent No.3.
Mr.R.Y.Sirsekar with Mr.H.C.Pimple for Res.No.4.
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CORAM: DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.

DATE : 11th August, 2006.

P.C.:

1. This is an Appeal against the order of the learned Single Judge dismissing the Plaintiff's Notice of Motion for a decree on admission.

2. This Appeal is not pressed in view of the following order which is passed with consent of both the parties.

i) Pending hearing and final disposal of the suit, the Respondent No.1 shall be entitled to occupy Flat No.A/3 in the Ashirwad Co-operative Housing Society, Vakola, Santacruz (East), Mumbai - 400055, and the Appellant will be entitled to occupy Flat No.51 in the Aasra Apartments, Vakola, Santacruz (East), Mumbai -

400055.

ii) The Respondent No.1 shall remove whatever material/ furniture / fixtures, if he so desires, from Flat No.51 and hand over possession of the said flat to the Appellant on or before 15th September, 2006. Undertaking of Respondent No.1 in this regard is accepted. In the event of Respondent No.1 leaving any material in Flat No.51, the joint inventory of the same shall be made and signed by both the parties.

iii) Pending hearing and final disposal of the suit, Respondent No.1 shall pay all the outgoings, taxes, maintenance charges etc. in respect of Flat No.A/3 and the Appellant shall do so in respect of Flat No.51.

iv) Respondent Nos.2 & 3 undertake to fulfill all the conditions necessary for obtaining the Occupation Certificate without any conditions. The said undertaking as well as the undertaking contained in the affidavit dated 8th August, 2006 filed in this Court by Anil Wadhare, partner of Respondent No.3, are hereby accepted.

v) Respondent Nos.2 & 3 shall make an application in this regard to the Municipal

Corporation of Greater Mumbai, H/East Ward, within a period of two weeks from today. The Municipal Corporation of Greater Mumbai is ordered and directed to consider the application and pass necessary orders thereon within a period of four weeks from the date of receipt of such an application.

vi) Similarly, Respondent Nos.2 & 3 undertake to make an application for N.A.permission to the Collector of Mumbai Suburban District. The same shall be done even if an application in that regard has already been made. Such an application shall be made within a period of two weeks from today. Collector of Mumbai Suburban District is directed to consider the same and pass orders thereon within a period of four weeks from the date of receipt of such an application.

3. We reiterate that the above order passed with consent of all the parties will be without prejudice to the rights and contentions of the parties.

4. Liberty to the Appellant to apply for a decree on admission in the event of an Occupation Certificate being obtained without any conditions.

5. Respondent Nos.2 and/or Respondent No.3 to serve the copy of this order on the Municipal Corporation of Greater Mumbai and the Collector of Mumbai Suburban District.

6. Appeal is accordingly disposed of.

(DR.S.RADHAKRISHNAN, J.)

(S.J.VAZIFDAR,J.)